

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6911**

**BILL NUMBER:** SB 379

**NOTE PREPARED:** Feb 15, 2005

**BILL AMENDED:** Feb 10, 2005

**SUBJECT:** Delivery sales of tobacco products.

**FIRST AUTHOR:** Sen. Weatherwax

**FIRST SPONSOR:** Rep. Cherry

**BILL STATUS:** As Passed - Senate

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill prohibits the shipping of tobacco products other than cigars to an Indiana resident who is not a tobacco products distributor. It provides that the prohibition does not apply to cigarette manufacturers that meet certain requirements. The bill repeals statutes governing delivery sales of cigarettes.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** (Revised) This bill prohibits the shipping of tobacco products, other than cigars, to an Indiana resident who is not a licensed cigarette distributor or an other tobacco products (OTP's) distributor.

The bill provides that the prohibition on the shipping of tobacco products does not apply to a cigarette manufacturer that does one of the following:

- (1) participates in, and performs their obligations under the Master Settlement Agreement;
- (2) places the applicable amount into a qualified escrow fund;
- (3) pays all applicable taxes under IC 6-7-1.

The bill provides that although a cigarette manufacturer that meets these conditions is not prohibited from shipping tobacco products, if they choose to ship these products to Indiana, the manufacturer must follow the provisions of IC 24-3-5-5 through IC 24-3-5-8. Those sections currently apply to all merchants, but this bill amends the references from merchants to cigarette manufacturers meeting the above conditions. These

manufacturers are currently required to comply with IC 24-3-5-5 when shipping tobacco products to Indiana residents, therefore there is not expected to be any fiscal impact from these provisions.

The provisions of this bill may assist the DOR in better regulating Cigarette and Sales tax remittances by internet buyers and sellers. This bill may also assist the Alcohol and Tobacco Commission (ATC) in better regulating illegal tobacco sales to minors by internet merchants. The overall administrative cost impact to the DOR and ATC is indeterminable.

DOR estimates that there are approximately 300 OTP's licensed distributors and approximately 150 distributors licensed for cigarettes. It is estimated that a large percentage of the cigarette distributor licensee's also hold OTP's licenses. This would mean that the total number of licensed distributors is estimated to be between 300 and 350.

To obtain a license as an OTP distributor a person must pay DOR a registration fee of \$25 per year, and file a surety bond or letter of credit with the DOR for \$1,000.

To obtain a license as a cigarette distributor a person must pay DOR a registration fee of \$500 per year, and file a surety bond or letter of credit with the DOR for \$1,000.

**Explanation of State Revenues:** This bill will have an indeterminable impact on Cigarette and Sales Tax revenue. Depending upon the ability of the DOR to enforce the provisions in this bill, there could be an increase in Cigarette and Sales Tax revenue. By requiring Indiana residents to obtain a distributor's license before legally receiving tobacco shipments may allow better enforcement. Conversely, by only allowing internet merchants to ship to distributors may also help with enforcement issues. It is indeterminable what effect this bill will have on deterring tax evasion through internet sales and purchases.

*Background:* Up from only a few in the 1990's, it is estimated that more than 400 web sites currently sell tobacco products. Internet tobacco sales were estimated to make up 2 percent of all tobacco sales in 2003. In 2005 internet tobacco sales are being estimated as making up 14 percent of the total U.S. tobacco market.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue; Alcohol and Tobacco Commission

**Local Agencies Affected:**

**Information Sources:** Terry Collins, DOR, 317-233-0388; Don Attebury, DOR, 317-232-2177; *Convenience Store* (magazine); <http://tobaccofreekids.org/reports/internet/>.

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